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EXAMINER	
UHLIR, CHRISTOPHER J	
ART UNIT	PAPER NUMBER
2832	

NOTIFICATION DATE	DELIVERY MODE
12/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/586,144	EASON ET AL.	
	Examiner	Art Unit	
	CHRISTOPHER UHLIR	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-8,10,11,13,14,17,19,22,23 and 50-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4-8, 10, 11, 13, 14, 17, 19, 22, 23, and 50-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on November 2, 2009 has been entered.

Claims 3, 9, 18, 20, 21, and 49 have been canceled without prejudice. Claims 1, 2, 4-8, 10, 11, 13, 14, 17, 19, 22, 23, and 50-54 are pending and an action on the merits is as follows.

Applicants' arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 52 is objected to under C.F.R. 37 § 1.75 (a).

> The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

This claim includes the limitation "wherein said pivot couplers can each be installed". The phrase 'can be installed' renders the claim to be indefinite. It is unclear if each coupler is required to be installed according to the limitations stated in the claim or not. Appropriate correction is required.

3. Claim 54 is objected to because of the following informalities: This claim includes the limitation "wherein each of said item support rails coupled to coupled to said". This limitation should be changed to state "wherein each of said item support rails coupled to said". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2, 4-8, 10, 11, 13, 14, 17, 19, 22, 23, 50, 51, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torrez (US 6,610,916 B1) in view of Lombardi (US 5,520,292).

Regarding claim 1, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (left horizontal bar 120, main horizontal longitudinal bar 110), each supported by two rail support legs (left rear vertical leg 140, left front vertical leg 150, right front vertical leg 160). It should be noted that the support apparatus is symmetrical about the center of item support rail (110) as can be seen from Fig. 2. Therefore any description of the elements on one side of support apparatus would apply to the respective elements on the opposite side. Each support leg (140/180, 150, 160) is coupled to respective item support rails (120/130, 110) by a coupler (pivot fitting 220, 230) (column 3 lines 58-64 and line 66 through column 4 line 2). Fig. 1a further shows

each of said rail support legs (140, 150, 160) to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art. A coupler (220) is disclosed to be a pivot coupler which pivotally couples a rail support leg (150/160) to an item support rail (110) along plane H2, as can be seen from Figs. 1d and 2-4 (column 3 lines 58-64). It should be noted that said pivot coupler (220) also allows said rail support leg (150/160) to pivot perpendicular to plane H2 through loosening and tightening thumb screw (225) shown in Fig. 5b. Said rail support leg (150) is further shown in Fig. 2 to define a substantially vertical axis.

Said pivot coupler (220) is shown in Fig. 5b to include a first and second compression element (upper protruding double flange 224) which compress toward each other around the item support rail (110) in a oppositely facing orientation through a compression enhancement element (thumb screw 225) (column 4 lines 30-33). Fig. 1d further shows the pivot coupler (220) to hold the rail support leg (150/160) around an end through thumb screw (229) (column 4 lines 36-39) and the item support rail (110) around a rail terminus. Said rail terminus is further shown in this figure to define a rail terminus interface. The pivot coupler (220) has a cable port (open end 101) and a cable channel sized to properly accommodate passage of a cable (102) from externally of said pivot coupler (220) and rail support leg (150) through said rail terminus interface and internally through a portion of the item support rail (110), as can be seen from Fig. 1a (column 3 lines 29-31). This reference fails to explicitly disclose the pivot coupler to enable rotatable motion of the item support rail about the substantially vertical axis, where the pivot coupler enables substantially purely vertical translatory height

adjustment of one of the item support rails relative to one of the rail support legs to which it is pivotally connected.

However the support apparatus disclosed by Torrez could be modified by rotating the pivot coupler (220) 90° as shown in Figure 2 below. This would provide the pivot coupler (220) to enable rotatable motion of the item support rail (110) about the substantially vertical axis defined by the rail support leg (150/160), and enable substantially purely vertical translatory height adjustment of the item support rail (120) relative to the rail support leg (150) through loosening and tightening thumb screw (225). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pivot coupler to enable rotatable motion of the item support rail about the substantially vertical axis, where the pivot coupler enables substantially purely vertical translatory height adjustment of one of the item support rails relative to one of the rail support legs to which it is pivotally connected since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). It has further been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a "wide degree of horizontal and vertical relative adjustment of percussion instruments" through a collapsible rack, as taught by Lombardi (column 2 lines 15-18).

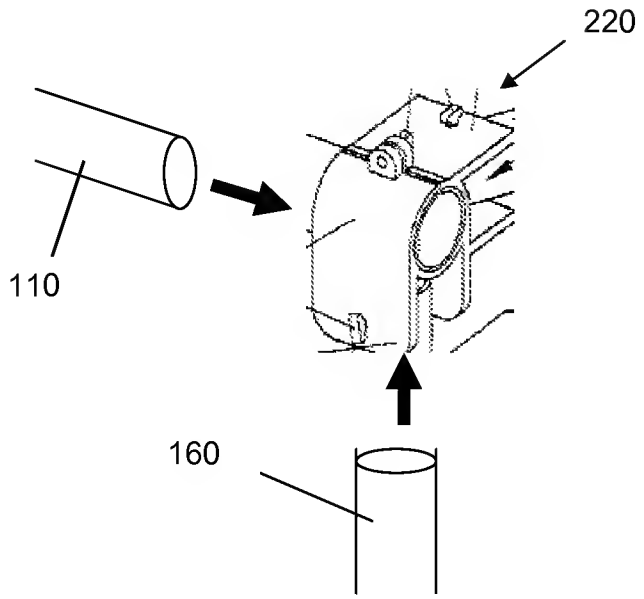

Figure 1: Pivot coupler orientated in Torrez

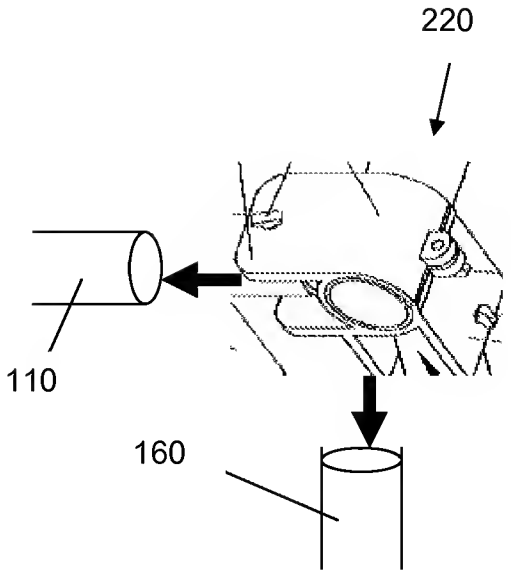

Figure 2: Pivot coupler rotated 90º

In reference to claim 2, Torrez modified by Lombardi discloses a support apparatus having three rail support legs (140, 150, 160) as stated above.

In reference to claim 4, Torrez modified by Lombardi discloses a support apparatus as stated above, shown in Fig. 1b of Torrez to have a cable end connector (104) attached to the cable (102). Said cable end connector (104) is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable (102). These references fail to explicitly disclose that the cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to

have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector that can be easily connected and disconnected to a mating cable end connector due to its large size.

In reference to claim 5, Torrez modified by Lombardi discloses a support apparatus having a cable port as stated above, further shown in Fig. 1a of Torrez to have multiple microphones attached to each item support rail. These references fail to explicitly disclose the pivot coupler to have at least a first and second cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least a first and second cable port, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claims 6 and 7, Torrez modified by Lombardi discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts

of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 8, Torrez modified by Lombardi discloses a support apparatus as stated above, shown in Fig. 1a of Torrez to have a cable port (101) sized to accommodate a cable (102) (column 3 lines 29-31). These references fail to explicitly disclose the cable port to be sized to accommodate only one cable.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to be sized to accommodate only one cable, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 10, Torrez modified by Lombardi discloses a support apparatus as stated above, but fails to explicitly disclose at least one item support rail to be non-horizontal.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one item support rail to be non-horizontal, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus that can be easily and comfortably used simultaneously by musicians of different sizes.

In reference to claim 11, Torrez modified by Lombardi discloses a support apparatus as stated above, where Torrez further discloses said support apparatus to be collapsible (column 2 lines 5-6).

In reference to claim 13, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (left horizontal bar 120, right horizontal bar 130, main horizontal longitudinal bar 110), each supported by two rail support legs (left rear vertical leg 140, left front vertical leg 150, right front vertical leg 160, rear right vertical leg 180). It should be noted that the support apparatus is symmetrical about the center of item support rail (110) as can be seen from Fig. 2. Therefore any description of the elements on one side of support apparatus would apply to the respective elements on the opposite side. Two pivot couplers (pivot fitting 220, 230) are shown in Fig 1a to pivotally couple item support rails (120/130, 110) to respective rail support legs (140/180, 150, 160) along plane H2 (column 3 lines 58-64 and line 66 through column 4 line 2). Each rail support leg (140/180, 150, 160) is shown in Fig. 2 to define a substantially vertical axis. Fig. 1a further shows each of said rail support legs (140/180, 150, 160) to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art. It should be noted that said pivot couplers (220, 230) also allow said rail support legs (150/160) to pivot perpendicular to plane H2 through loosening and tightening thumb screw (225) shown in Fig. 5b.

A pivot coupler (220) is disclosed to have a first cable port (open end 101) allowing a cable to access the pivot coupler (220), a second cable port allowing the cable to internally access an item support rail (110), and a cable channel between the

two cable ports, sized to properly accommodate passage of a cable (102) from externally of said rail support leg (150), through the cable channel and cable port within the pivot coupler (220), and internally through the item support rail (110), as can be seen from Fig. 1a (column 3 lines 29-31). Torrez further shows in Fig. 1a, the support apparatus to have multiple microphones attached to each item support rail (110, 120, 130). This reference fails to explicitly disclose the pivot couplers to be rotatable about the substantially vertical axis, where the pivot couplers are also height adjust couplers that enable substantially purely vertical translatory height adjustment of an item support rail, a portion of the item support rail to be sized to accommodate passage of two cables, and each of the cable ports to be sized to accommodate one cable.

However the support apparatus disclosed by Torrez could be modified by rotating the pivot couplers (220, 230) 90° as shown in Figure 2 above. This would provide the pivot couplers (220, 230) to enable rotatable motion of the item support rail (110) about the substantially vertical axis defined by the rail support legs (150/160), and enable substantially purely vertical translatory height adjustment of the item support rails (120/130) relative to the rail support legs (150/160) through loosening and tightening thumb screw (225). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pivot couplers to be rotatable about the substantially vertical axis, where the pivot couplers are also height adjust couplers that enable substantially purely vertical translatory height adjustment of an item support rail. It would further be obvious to one of ordinary skill in the art at the time the invention was made to provide a portion of the item support rail to be sized to

accommodate passage of two cables, and each of the cable ports to be sized to accommodate one cable. It has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). It has further been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. It has further been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Also, a change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a "wide degree of horizontal and vertical relative adjustment of percussion instruments" through a collapsible rack, as taught by Lombardi (column 2 lines 15-18). Doing so would also provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 14, Torrez modified by Lombardi discloses a support apparatus having three rail support legs (140, 150, 160) as stated above.

In reference to claim 17, Torrez modified by Lombardi discloses a support apparatus as stated above, shown in Fig. 1b of Torrez to have a cable end connector (104) attached to the cable (102). Said cable end connector (104) is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable (102). These references fail to explicitly disclose that each cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide each cable port to

have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector that can be easily connected and disconnected to a mating cable end connector due to its large size.

In reference to claim 19, Torrez modified by Lombardi discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 22, Torrez modified by Lombardi discloses a support apparatus as stated above, but fails to explicitly disclose an item support rail to be non-horizontal.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one item support rail to be non-horizontal, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus

that can be easily and comfortably used simultaneously by musicians of different sizes.

In reference to claim 23, Torrez modified by Lombardi discloses a support apparatus as stated above, where Torrez further discloses said support apparatus to be collapsible (column 2 lines 5-6).

In reference to claim 50, Torrez modified by Lombardi discloses a support apparatus as stated above, where the pivot coupler (220) would rotate about the substantially vertical axis during rotatable motion of the item support rail (110).

In reference to claim 51, Torrez modified by Lombardi discloses a support apparatus as stated above, where the first and second compressible elements is shown in Figure 2 above to be installed around the rail terminus and a portion of the rail support leg (150/160). These references fail to explicitly disclose the cable to enter an item support rail without pre-drilling of either the item support rail or a portion of a rail support leg.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the item support rails and rail support legs to be hollow cylinders such that the cable can enter an item support rail without pre-drilling of either the item support rail or a portion of a rail support leg. Doing so would provide a support apparatus that is more lightweight, as taught by Torrez (column 2 lines 12-14).

In reference to claim 54, Torrez modified by Lombardi discloses a support apparatus as stated above, where each item support rail coupled to a respective rail support leg is rotatable about respective substantially vertical axes through pivoting each pivot coupler.

6. Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torrez (US 6,610,916 B1) modified by Lombardi (US 5,520,292) as applied to claims above, further in view of Zickos (US 3,945,291).

In reference to claim 52, Torrez modified by Lombardi discloses a support apparatus as stated above, where each pivot coupler (220, 230) is installed so as to couple the item support rail (110) to a respective rail support legs (150/160) without pre-drilling the rail support legs (150/160). This is due to the frictional contact made by compressible element (upper protruding double flange 224) and thumb screw (225) (column 4 lines 30-33), shown in Fig. 5b or Torrez, when installed against the rail support legs (150/160) as shown in Figure 2 above. These references fail to disclose each pivot coupler to be installed without pre-drilling of the item support rail. These references further fail to explicitly disclose each cable to pass from externally of the rail support legs to internally of the item support rail without passing through a drilled hole in the item support rail.

However Zickos teaches a support apparatus shown in Fig. 1 to include pivot coupler (joint 68) which couples a horizontal rail (rod 66) to a rail support leg (rod 78). This reference further shows that said pivot coupler (68) is installed without pre-drilling of either the horizontal (66) or the rail support leg (78) (column 5 line 67 through column 6 line 10).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez as modified by Lombardi with providing each

pivot coupler to be installed without pre-drilling of the item support rail, as taught by Zickos. Doing so would provide an easy adjustment for the support apparatus requiring loosening or tightening one screw for each coupler, as taught by Zickos (column 6 lines 10-15). These references fail to explicitly disclose each cable to pass from externally of the rail support legs to internally of the item support rail without passing through a drilled hole in the item support rail.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the item support rails and rail support legs to be hollow cylinders such that the cable can enter an item support rail without pre-drilling of either the item support rail or a portion of a rail support leg. Doing so would provide a support apparatus that is more lightweight, as taught by Torrez (column 2 lines 12-14).

In reference to claim 53, Torrez modified by Lombardi discloses a support apparatus as stated above, where each pivot coupler (220, 230) is installed so as to couple the item support rail (110) to a respective rail support legs (150/160) without pre-drilling the rail support legs (150/160). This is due to the frictional contact made by compressible element (upper protruding double flange 224) and thumb screw (225) (column 4 lines 30-33), shown in Fig. 5b or Torrez, when installed against the rail support legs (150/160) as shown in Figure 2 above. These references fail to disclose each pivot coupler to be installed without pre-drilling of the item support rail.

However Zickos teaches a support apparatus shown in Fig. 1 to include pivot coupler (joint 68) which couples a horizontal rail (rod 66) to a rail support leg (rod 78). This reference further shows that said pivot coupler (68) is installed without pre-drilling

of either the horizontal (66) or the rail support leg (78) (column 5 line 67 through column 6 line 10).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez as modified by Lombardi with providing each pivot coupler to be installed without pre-drilling of the item support rail, as taught by Zickos. Doing so would provide an easy adjustment for the support apparatus requiring loosening or tightening one screw for each coupler, as taught by Zickos (column 6 lines 10-15).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER UHLIR whose telephone number is (571)270-3091. The examiner can normally be reached on Monday-Friday 8:30am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER UHLIR/
Examiner, Art Unit 2832
December 4, 2009

/Jeffrey Donels/
Primary Examiner, Art Unit 2832